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VETO OF H.R. 3384

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE VETO OF H.R. 3384

JANUARY 21, 1986.—Message and accompanying papers referred to the Committee on Post Office and Civil Service and ordered to be printed

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To the House of Representatives:

Since the adjournment of the Congress has prevented my return of H.R. 3384 within the meaning of Article I, section 7, clause 2 of the Constitution, my withholding of approval from the bill precludes its becoming law. Notwithstanding what I believe to be my constitutional power regarding the use of the "pocket veto" during an adjournment of Congress, however, I am sending H.R. 3384 to the House of Representatives with my objections, consistent with the Court of Appeals decision in *Barnes* v. *Kline*, 759 F.2d 21 (D.C. Cir. 1985), cert. pending sub nom. *Burke* v. *Barnes*, No. 85–781.

H.R. 3384 contains some desirable features, particularly a change in the Federal employees health benefits law recommended by my Administration that would allow anticipated rebates of health insurance premiums to be paid by insurance carriers to Federal annuitants, as is already allowed for active employees. I fully support the proposed rebates, but I could not approve the bill, especially because of one seriously objectionable feature. That feature would eliminate the current 75 percent ceiling on the Government's share of the premiums of any individual health insurance plan of employees and annuitants.

Elimination of the ceiling would add to Government costs and increase the Federal budget deficit at the very time that there is a critical need for fiscal restraint. In order to comply with the deficit reduction mandated by the Gramm-Rudman-Hollings Act, spending for most Government programs will have to be cut. Under those circumstances, this is not the time to raise the Government's personnel costs.

Lifting the 75 percent "cap" by itself would directly increase Government costs for many Federal Employees Health Benefits (FEHB) premiums, since the Government would now pay for costs previously paid by employees. OPM has estimated that this will result in adding almost $90 million to the Federal deficit in fiscal year 1986 and another $173 million in 1987. Over the six-year period 1986 through 1991, the Federal deficit would increase by an estimated $1.2 billion. Some proponents of this provision will claim that it would save money because it will induce employees to shift to low-cost plans. However, any such savings must be weighed against the substantial Federal cost increases projected over the next six years.

Health benefits reform legislation proposed by the Administration included lifting the cap as one of its elements. In our proposal, however, that provision was linked with structural improvements in the Federal employee health insurance program, including a change in the way the Government's contribution is established, that would reduce the cost of the program for both employees and the Government. H.R. 3384 ignores that essential linkage by simply lifting the cap without program reform, resulting in an unaccept-

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able shift in costs from employees to the Government. I look forward to working with the Congress early in the session to develop a suitable package of structural reforms that would include lifting the cap.

In addition, the provision requiring direct access to and permitting direct payment for the services of nurses and nurse-midwives, without supervision or referral by another health practitioner, deserves full evaluation, including hearings by the Congress. In its present form, it is a major departure from established health care practice and may be counter to many State laws.

In the meantime, I urge the Congress to act as soon as possible to enact acceptable legislation that will permit Federal annuitants to receive rebates of health insurance premiums without undue further delay.

RONALD REAGAN.

The WHITE HOUSE, *January 17, 1986.*

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H. R. 3384

Ninety-ninth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Thursday, the third day of January, one thousand nine hundred and eighty-five

An Act

To amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contigency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Benefits Improvement Act of 1985".

TITLE I—FEDERAL EMPLOYEE HEALTH BENEFITS

SEC. 101. AUTHORITY TO PAY CERTAIN HEALTH CARE PROFESSIONALS.

(a) DEFINITIONS.—Section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) 'certified nurse-midwife' has the same meaning given to such term in section 1905(m) of the Social Security Act; and

"(12) 'qualified clinical social worker' means an individual—

"(A) who is licensed or certified as a clinical social worker by the State in which such individual practices; or

"(B) who, if such State does not provide for the licensing or certification of clinical social workers—

"(i) is certified by a national professional organization offering certification of clinical social workers; or

"(ii) meets equivalent requirements (as prescribed by the Office).".

(b) NURSES AND NURSE-MIDWIVES.—Section 8902(k) of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof ", optometrist, nurse, or certified nurse-midwife".

(c) CLINICAL SOCIAL WORKERS.—Section 8902(k) of title 5, United States Code, is further amended—

(1) by striking out "(k)" and inserting in lieu thereof "(k)(1)";

(2) by striking out the last sentence; and

(3) by inserting at the end thereof the following:

"(2) When a contract under this chapter requires payment or reimbursement for services which may be performed by a qualified clinical social worker, an employee, annuitant, family member, or former spouse covered by the contract shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. As a condition for the payment or reimbursement, the contract—

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"(A) may require that the services be performed pursuant to a referral by a psychiatrist; but

"(B) may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

"(3) The provisions of this subsection shall not apply to group practice prepayment plans.".

(d) EFFECTIVE DATES.—The amendments made by subsections (a), (b), and (c) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

SEC. 102. ELIMINATION OF REQUIREMENT OF THREE MEDICAL SPECIALTIES FOR GROUP-PRACTICE PREPAYMENT PLANS.

The second sentence of section 8903(4)(A) of title 5, United States Code, is amended to read as follows: "The group shall include at least 3 physicians who receive all or a substantial part of their professional income from the prepaid funds and who represent 1 or more medical specialties appropriate and necessary for the population proposed to be served by the plan.".

SEC. 103. AUTHORITY TO WAIVE CERTAIN ELIGIBILITY REQUIREMENTS.

Section 8905(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The Office may, in its sole discretion, waive the requirements of this subsection in the case of an individual who fails to satisfy such requirements if the Office determines that, due to exceptional circumstances, it would be against equity and good conscience not to allow such individual to be enrolled as an annuitant in a health benefits plan under this subchapter.".

SEC. 104. ANNUAL OPEN SEASON.

(a) IN GENERAL.—Section 8905(f) of title 5, United States Code, is amended to read as follows:

"(f)(1) Under regulations prescribed by the Office, the Office shall, before the start of any contract term in which—

"(A) an adjustment is made in any of the rates charged or benefits provided under a health benefits plan described by section 8903 or 8903a of this title,

"(B) a newly approved health benefits plan is offered, or

"(C) an existing plan is terminated,

provide a period of not less than 3 weeks during which any employee, annuitant, or former spouse enrolled in a health benefits plan described by such section shall be permitted to transfer that individual's enrollment to another such plan or to cancel such enrollment.

"(2) In addition to any opportunity afforded under paragraph (1) of this subsection, an employee, annuitant, or former spouse enrolled in a health benefits plan under this chapter shall be permitted to transfer that individual's enrollment to another such plan, or to cancel such enrollment, at such other times and subject to such conditions as the Office may prescribe in regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

SEC. 105. AUTHORITY TO REFUND CERTAIN CONTRIBUTIONS TO ENROLLEES.

The last sentence of section 8909(b) of title 5, United States Code, is amended by striking out "employees" and inserting in lieu thereof "enrollees".

SEC. 106. HEALTH SERVICES FOR MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—(1) Section 3 of the Act entitled "An Act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes", approved September 17, 1978 (Public Law 95-368; 92 Stat. 606; 5 U.S.C. 8902 note), is amended by striking out "; except that such provisions shall not apply to services provided after December 31, 1984".

(2) Section 5(b) of the Act entitled "An Act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes", approved January 2, 1980 (Public Law 96-179; 93 Stat. 1300; 5 U.S.C 8902 note), is amended by striking out "and before January 1, 1985,".

(3) Section 8902(m)(2)(A) of title 5, United States Code, is amended by adding at the end thereof the following: "This paragraph shall apply with respect to a qualified clinical social worker covered by subsection (k)(2) of this section without regard to whether such contract contains the requirement authorized by clause (i) of the second sentence of subparagraph (A) of such subsection (k)(2).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to services provided after December 31, 1984.

SEC. 107. MENTAL HEALTH, ALCOHOLISM, AND DRUG ADDICTION BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) the treatment of mental illness, alcoholism, and drug addiction are basic health care services which are needed by approximately 40,000,000 Americans each year;

(2) treatment of mental illness, alcoholism, and drug addiction is increasingly successful;

(3) timely and appropriate treatment of mental illness, alcoholism, and drug addiction is cost effective in terms of restored productivity, reduced utilization of other health services, and reduced social dependence; and

(4) mental illness is a problem of grave concern to the people of the United States and is widely but unnecessarily feared and misunderstood.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that participants in the Federal employees health benefits program should receive adequate benefits coverage for treatment of mental illness, alcoholism, and drug addiction; and

(2) that the Office of Personnel Management should encourage participating health benefits plans to provide adequate benefits relating to treatment of mental illness, alcoholism, and drug addiction (including benefits relating to coverage for inpatient and outpatient treatment and catastrophic protection benefits).

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SEC. 108. STUDY OF THE ADEQUACY OF HEALTH BENEFITS PROGRAM INFORMATION.

(a) IN GENERAL.—Not later than March 1, 1986, the Office of Personnel Management shall (1) study the adequacy of any sources or methods currently provided under chapter 89 of title 5, United States Code, to assist individuals in making informed decisions concerning the choice of a health benefits plan under such chapter and the use of benefits available under any such plan, and (2) submit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the findings and determinations of the Office resulting from such study.

(b) REPORT REQUIREMENTS.—The report required by subsection (a) shall include—

(1) an assessment of the adequacy of the sources and methods referred to in such subsection in advising individuals with respect to the coordination of benefits under chapter 89 of title 5, United States Code, with benefits available under other health insurance programs established by or under Federal law, including title XVIII of the Social Security Act; and

(2) the administrative actions and any recommendations for legislation which the Office considers necessary in order to improve the effectiveness of any such source or method.

SEC. 109. DEMONSTRATION PROJECT.

(a) DEFINITIONS.—For the purposes of this section—

(1) "health protection" means activities to minimize environmental and other workplace conditions which cause or aggravate stress, illness, disability, or other health impairments, including such activities as—

(A) accommodation of the handicapped;

(B) review of plans for new or altered facilities;

(C) routine inspections, surveys, studies of worksites;

(D) inspections of worksites by a physician, nurse, or other licensed health professional with training in occupational safety and health;

(E) evaluation and monitoring of worksite hazards; and

(F) investigations of causes of occupational disease or injury;

(2) "health promotion" means activities to encourage the development of health enhancing habits and practices, including activities encouraging—

(A) cessation of tobacco smoking;

(B) reduction in the misuse of alcohol, drugs, and other chemical substances;

(C) improvements in nutrition;

(D) improvements in physical fitness, including weight reduction; and

(E) control of stress;

(3) "disease prevention" means activities to prevent unnecessary illnesses, morbidity, disability, and medical treatment, including—

(A) occupationally related examinations;

(B) general health assessments;

(C) biological monitoring;

(D) immunizations, chemoprophylaxis, fitting respirators and hearing protectors, use of barrier creams, control of

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high blood pressure, control of sexually transmittable diseases, care to improve pregnancy outcome, control of toxic agents, control or elimination of hazards leading to accidental injuries, control of infectious agents, and other health intervention activities; and

(E) referral to private physicians, dentists, and other licensed health professionals;

(4) "secondary prevention" means—

(A) activities to provide on-the-job emergency health and dental care and assistance, and

(B) rehabilitation or follow-up care after emergency care,

to reduce morbidity, disability, lost productivity, and medical treatment.

(b) IN GENERAL.—The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall establish and carry out at least one demonstration project to determine—

(1) the most effective (including cost-effective) means of—

(A) furnishing health protection, health promotion, disease prevention, and secondary prevention services to Federal Government employees;

(B) encouraging such employees to adopt good health habits;

(C) reducing health risks to such employees, particularly the risks of heart disease, cancer, stroke, diabetes, anxiety, depression, and lifestyle-related accidents;

(D) reducing medical expenses of such employees through health protection, health promotion, disease prevention, and secondary prevention activities;

(E) enhancing employee productivity and reducing health related liability of the Federal Government through a comprehensive occupational health program; and

(F) carrying out a program—

(i) to train employees under the jurisdiction of a Federal Government agency to furnish health protection, health promotion, disease prevention, and secondary prevention services to employees of such agency; and

(ii) to promote interagency agreements under which trained employees of an agency are available to furnish such services to employees of other Federal Government agencies, subject to reimbursement of the costs of the agency in making the trained employees available; and

(2) the cost effectiveness of organizational structures and of social and educational programs which may be useful in achieving the objectives described in clause (1).

(c)(1) CONDUCT OF THE DEMONSTRATION PROJECT.—The demonstration project described in subsection (b) shall be conducted in cooperation with at least one—

(A) health profession school;

(B) allied health profession or nurse training institution; or

(C) public or private entity which provides health care.

(2)(A) The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, may enter into contracts with, or make grants to, any school of medicine, school of osteopathy, school of public health, school of nursing,

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health maintenance organization, or other qualified health care provider for the purpose of carrying out the demonstration project described in subsection (b).

(B) The authority of the Director of the Office of Personnel Management to enter into contracts or to make grants under subparagraph (A) is effective for fiscal year 1986 and subsequent fiscal years only to such extent or in such amounts as are provided in appropriation Acts.

(C) For the purposes of this paragraph, the terms "school of medicine" and "school of osteopathy" have the same meanings as provided for such terms in section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

(d) REPORT.—Not later than 60 days after the date the demonstration project required by subsection (b) terminates, the Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report on the project.

(e) ESTABLISHMENT AND TERMINATION REQUIREMENTS.—The demonstration project required by subsection (b) shall be established not later than 6 months after the date of enactment of this Act and shall terminate on the date 2 years after such date of enactment.

SEC. 110. ADDITIONAL TYPE OF HEALTH BENEFITS PLAN.

Paragraph (4) of section 8903 of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) MIXED MODEL PREPAYMENT PLANS.—Mixed model prepayment plans which are a combination of the type of plans described in subparagraph (A) and the type of plans described in subparagraph (B).".

SEC. 111. REPEAL OF 75 PERCENT MAXIMUM IN GOVERNMENT CONTRIBUTIONS.

(a) REPEAL OF 75 PERCENT MAXIMUM.—Section 8906(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 100 percent of the subscription charge.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to pay periods commencing on or after March 1, 1986.

SEC. 112. RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO THE EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES.

(a) PROHIBITED TRANSFERS.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2).

(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

(b) RESTRICTION RELATING TO USE OF CERTAIN AMOUNTS IN THE FUND.—(1) Any amount which is in the Employees Health Benefits

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Fund, and which is described in paragraph (2), may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans.

(2) This subsection applies with respect to any amounts—

(A) which are referred to in subsection (a)(2); and

(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "Employees Health Benefits Fund" refers to the fund described in section 8909(a) of title 5, United States Code;

(2) the term "carrier" has the meaning given such term by section 8901(7) of such title; and

(3) the term "health benefits plan" has the meaning given such term by section 8901(6) of such title.

TITLE II—CIVIL SERVICE SPOUSE AND FORMER SPOUSE EQUITY IMPROVEMENTS

SEC. 201. REVISION OF THE APPLICATION AND SPECIAL ELECTIONS PROVISIONS OF THE CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984.

(a) APPLICATION.—Section 4(a) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3204) is amended to read as follows:

"(a)(1) Except as provided in paragraphs (3), (4), (5), and (6) and subsections (b) and (c), the amendments made by section 2 of this Act shall take effect May 7, 1985, and shall apply—

"(A) to any individual who, on or after such date, is married to an employee or Member who, on or after such date, retires, dies, or applies for a refund of contributions under subchapter III of chapter 83 of title 5, United States Code, and

"(B) to any individual who, as of such date, is married to a retired employee or Member,

unless (i) such employee or Member has waived, under the first sentence of section 8339(j)(1) of such title (or a similar prior provision of law), the right of that individual's spouse to receive a survivor annuity, or (ii) in the case of a post-retirement marriage or remarriage, an election has not been made before such date by such employee or Member with respect to such individual under the applicable provisions of section 8339(j)(1) or 8339(k)(2) of such title, as the case may be (or a similar prior provision of law).

"(2) Except as provided in subsection (f), the amendments made by section 3 of this Act shall take effect May 7, 1985, and shall apply to any individual who, on or after such date, is married to an employee or annuitant.

"(3) The amendments made by subparagraphs (B)(iii) and (C)(ii) of section 2(4) of this Act (relating to the termination of survivor benefits for a widow or widower who remarries before age 55) and the amendments made by subparagraph (F) of such section 2(4) (relating to the restoration of a survivor annuity upon the dissolution of such a remarriage) shall apply—

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"(A) in the case of a remarriage occurring on or after the date of the enactment of this Act; and

"(B) with respect to periods beginning on or after such date.

"(4)(A) Except as provided in subparagraph (B), the amendment made by section 2(3)(A) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8339(j)(5)(C)) and the amendment made by section 2(3)(C) of this Act (which relate to the election of a survivor annuity for a spouse in the case of a post-retirement marriage or remarriage) shall apply—

"(i) to an employee or Member who retires before, on, or after May 7, 1985; and

"(ii) in the case of a marriage occurring on or after May 7, 1985.

"(B) The amendments referred to in subparagraph (A) shall not apply in the case of a marriage of an employee or Member retiring before May 7, 1985, if the marriage occurred after May 6, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985.

"(C) Any election by an employee or Member described in subparagraph (B) to provide a survivor annuity for that individual's spouse by a marriage described in such subparagraph shall be effective if made in accordance with the applicable provisions of section 8339(j)(1) or 8339(k)(2) of title 5, United States Code, as the case may be, as in effect on May 6, 1985.

"(5)(A) Paragraphs (2), (3), (4), and (5)(B) of section 8339(j) of title 5, United States Code (as added by section 2(3)(A) of this Act), shall apply in the case of a former spouse of an employee or Member whose marriage to such employee or Member terminated before May 7, 1985, if such employee or Member retires on or after such date.

"(B)(i) The requirement described in clause (ii) shall not apply to an election made by an employee or Member under section 8339(j)(3) of title 5, United States Code (as amended by section 2(3)(A) of this Act), in order to provide a survivor annuity under section 8341(h) of such title (as amended by section 2(4)(G) of this Act) in the case of a former spouse referred to in subparagraph (A) if the election meets the requirements of clause (iii).

"(ii) The requirement referred to in clause (i) is the requirement prescribed in section 8339(j)(3) of title 5, United States Code, for an employee or Member to make an election in the case of a former spouse under such section 8339(j)(3) at the time of retirement or, if later, within 2 years after the date on which the marriage of the former spouse to the employee or Member is dissolved.

"(iii) Clause (i) applies to an election which is made by an employee or Member who retires on or after May 7, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985, and is received by the Office of Personnel Management within the 2-year period beginning on the date of the enactment of such Act.

"(C) A survivor annuity shall be paid a former spouse as provided in section 8341(h) of title 5, United States Code (as amended by section 2(4)(G) of this Act), pursuant to an election made in the case of such former spouse under this paragraph.

"(D) The amendments made by paragraphs (6) and (7) of section 2 of this Act shall apply in the case of survivor annuities and elections authorized by this paragraph.

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"(6) The amendment made by section 2(4)(A) of this Act (relating to the definition of a widow or widower) and the amendment made by section 2(4)(G) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8341(i)) shall apply with respect to any marriage occurring on or after the date of the enactment of this Act.".

(b) ENTITLEMENT OF A FORMER SPOUSE IN CASE OF RETIREMENT OR DEATH OF AN EMPLOYEE OR MEMBER BEFORE THE EFFECTIVE DATE.—Section 4(b) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3205) is amended—

(1) in paragraph (1)—

(A) by striking out "the one hundred and eightieth day after the date of enactment of this Act" in the matter before subparagraph (A) and inserting in lieu thereof "May 7, 1985, or who died after becoming eligible to retire and before such date,";

(B) by striking out "retired" in the matter before clause (i) in subparagraph (B); and

(C) by striking out clause (iii) in subparagraph (B) and by redesignating clauses (iv), (v), and (vi) of such subparagraph as clauses (iii), (iv), and (v), respectively; and

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) A former spouse of an employee or Member referred to in the matter before subparagraph (A) in paragraph (1) of this section shall be entitled to a survivor annuity under subparagraph (B) of such paragraph if—

"(i) the former spouse satisfies the requirements of clauses (ii) through (v) of such subparagraph (B); and

"(ii) there is no surviving spouse of the employee or Member and no other former spouse of such employee or Member who is entitled to receive a survivor annuity under subchapter III of chapter 83 of title 5, United States Code, based on the service of such employee or Member which is creditable under such subchapter and there is no other person who has been designated to receive a survivor annuity under such subchapter by reason of an insurable interest in such employee or Member.

"(B) For the purposes of this paragraph, the term 'surviving spouse' means a widow or a widower as defined in paragraphs (1) and (2), respectively, of section 8341(a) of title 5, United States Code."; and

(4) in paragraph (5), as redesignated by clause (2) of this subsection—

(A) by striking out "Member," in the matter before subparagraph (A) and inserting in lieu thereof "Member (or of that portion of the annuity which such employee or Member may have designated for this purpose under paragraph (1)(A) of this subsection),"; and

(B) by striking out "section 8341(b)(4)" in the matter following subparagraph (B) and inserting in lieu thereof "section 8341(h)(2)".

(c) ELIGIBILITY OF CERTAIN FORMER SPOUSES TO ENROLL IN A FEDERAL EMPLOYEES HEALTH BENEFITS PLAN.—(1) The first sentence of section 4(f) of the Civil Service Retirement Spouse Equity Act of 1984 is amended to read as follows: "Any individual—

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"(1) who is entitled to a survivor annuity under subsection (b) of this section or pursuant to an election authorized by reason of the application of subsection (a)(5) of this section,

"(2) as to whom a court order or decree referred to in section 8345(j) of title 5, United States Code (or similar provision of law under a retirement system for Government employees other than the Civil Service Retirement System) has been issued before May 7, 1985, or

"(3) who is entitled (other than as described in paragraph (2)) to an annuity or any portion of an annuity as a former spouse under a retirement system for Government employees as of May 7, 1985,

shall be considered to have satisfied section 8901(10)(C) of title 5, United States Code, as amended by this Act.".

(2) The second sentence of such section 4(f) is amended—

(A) by inserting ", within 12 months after the date of the enactment of the Federal Employees Benefits Improvement Act of 1985," before "enroll"; and

(B) by inserting before the period at the end the following: "(other than the conditions prescribed in subparagraphs (A) and (B) of paragraph (1) of such section 8905(c))".

(d) ADDITIONAL ELECTION.—(1) Notwithstanding the time limitation prescribed in subparagraph (A) of section 4(b)(1) of the Civil Service Retirement Spouse Equity Act of 1984, an election may be made under such subparagraph before the expiration of the 12-month period beginning on the date on which the regulations under paragraph (3) of this subsection first take effect.

(2) Any retired employee or Member who has made an election under section 4(b)(1)(A) of the Civil Service Retirement Spouse Equity Act of 1984 (as in effect at the time of such election) before the regulations under paragraph (3) of this subsection become effective may modify such election by designating, in writing, that only a portion of such employee or Member's annuity is to be used as the base for the survivor annuity for the former spouse for whom the election was made. A modification under this subparagraph shall be subject to the deadline under paragraph (1) of this subsection.

(3) The Office of Personnel Management shall prescribe regulations to carry out this subsection, including regulations under which an appropriate refund shall be made in the case of a modification under paragraph (2) of this subsection.

SEC. 202. CREDIT FOR MILITARY SERVICE.

Section 8332(j)(1) of title 5, United States Code, is amended by striking out "widow" each place it appears and inserting in lieu thereof "spouse, former spouse".

SEC. 203. ANNUITY REDUCTIONS.

(a) IRREVOCABILITY OF A JOINT SPOUSAL WAIVER.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting ", unless all rights to survivor benefits for such former spouse under this subchapter based on marriage to such employee or Member were waived under paragraph (1) of this subsection" before the period at the end of the first sentence.

(b) REPLACEMENT OF TERMINATED REDUCTION.—Section 8339(j)(5)(B) of title 5, United States Code, is amended to read as follows:

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"(B) Any reduction in an annuity for the purpose of providing a survivor annuity for a former spouse of a retired employee or Member shall be terminated for each full month after the former spouse remarries before reaching age 55 or dies. This reduction shall be replaced by an appropriate reduction or reductions under paragraph (4) of this subsection if the retired employee or Member has (i) another former spouse who is entitled to a survivor annuity under section 8341(h) of this title, (ii) a current spouse to whom the employee or Member was married at the time of retirement and with respect to whom a survivor annuity was not jointly waived under paragraph (1) of this subsection, or (iii) a current spouse whom the employee or Member married after retirement and with respect to whom an election has been made under subparagraph (C) of this paragraph or subsection (k)(2) of this section.".

(c) ELECTIONS RELATING TO A SURVIVOR ANNUITY FOR A PERSON WHO HAS AN INSURABLE INTEREST IN AN ANNUITANT.—(1) Section 8339(j)(5)(C) of title 5, United States Code, is amended by adding at the end thereof the following:

"(v) An election to provide a survivor annuity to a person under this subparagraph—

"(I) shall prospectively void any election made by the employee or Member under subsection (k)(1) of this section with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such subsection (k)(1) with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this subparagraph.

"(vi) The deposit provisions of clauses (ii) and (iii) of this subparagraph shall not apply if—

"(I) the employee or Member makes an election under this subparagraph after having made an election under subsection (k)(1) of this section; and

"(II) the election under such subsection (k)(1) becomes void under clause (v) of this subparagraph.".

(2) Section 8339(k)(1) of such title is amended by adding at the end thereof the following: "In the case of a married employee or Member, an election under this paragraph on behalf of the spouse may be made only if any right of such spouse to a survivor annuity based on the service of such employee or Member is waived in accordance with subsection (j)(1) of this section.".

(3) Paragraph (2) of section 8339(k) of such title is amended—

(A) by striking out subparagraph (B)(i) and inserting in lieu thereof the following:

"(B)(i) The election and reduction shall take effect on the first day of the first month beginning after the expiration of the 9-month period beginning on the date of marriage. Any such election to provide a survivor annuity for a person—

"(I) shall prospectively void any election made by the employee or Member under paragraph (1) of this subsection with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such paragraph with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this paragraph.";

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(B) by striking out "(other than an employee or Member who made a previous election under paragraph (1) of this subsection)" in subparagraph (B)(ii); and

(C) by adding at the end thereof the following new subparagraph (D):

"(D) Subparagraphs (B)(ii) and (C) of this paragraph shall not apply if—

"(i) the employee or Member makes an election under this paragraph after having made an election under paragraph (1) of this subsection; and

"(ii) the election under such paragraph (1) becomes void under subparagraph (B)(i) of this paragraph.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect May 7, 1985.

SEC. 204. PRORATED COST-OF-LIVING ADJUSTMENTS FOR THE FIRST YEAR.

Section 8340(c)(1) of title 5, United States Code, is amended—

(1) by striking out "or widower" the first time it appears and inserting in lieu thereof ", widower, or former spouse,"; and

(2) by striking out "or widower" the second and third time it appears and inserting in lieu thereof ", widower, former spouse, or insurable interest designee".

SEC. 205. SURVIVOR BENEFITS FOR CHILDREN.

(a) EQUITABLE SURVIVOR ANNUITIES FOR SURVIVING CHILDREN.—Section 8341(e) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated by clause (1), the following new paragraph:

"(1) For the purposes of this subsection, 'former spouse' includes a former spouse who was married to an employee or Member for less than 9 months and a former spouse of an employee or Member who completed less than 18 months of service covered by this subchapter.".

(b) INDIVIDUAL DETERMINATION OF SURVIVOR ANNUITY AMOUNT.—Section 8341(e)(2) of title 5, United States Code, as redesignated by subsection (a)(1) of this section, is amended by striking out "each surviving child" both times it appears and inserting in lieu thereof "that surviving child".

SEC. 206. DEFERRED ANNUITIES FOR FORMER SPOUSES OF FORMER MEMBERS OF CONGRESS.

Section 8341(h)(1) of title 5, United States Code, is amended by striking out "or annuitant" and inserting in lieu thereof "annuitant, or former Member who was separated from the service with title to a deferred annuity under section 8338(b) of this title".

SEC. 207. CHANGES IN COURT ORDERS AFTER DEATH.

Section 8341(h)(4)(A) of title 5, United States Code, is amended by inserting "or death" after "retirement".

SEC. 208. EFFECT OF A SEPARATION AGREEMENT ON REFUND OF A LUMP-SUM CREDIT.

Section 8342(j)(1)(B) of title 5, United States Code, is amended to read as follows:

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"(B) shall be subject to the terms of a court decree of divorce, annulment, or legal separation or any court order or court approved property settlement agreement incident to such decree if—

"(i) the decree, order, or agreement expressly relates to any portion of the lump-sum credit involved; and

"(ii) payment of the lump-sum credit would extinguish entitlement of the employee's or Member's spouse or former spouse to a survivor annuity under section 8341(h) of this title or to any portion of an annuity under section 8345(j) of this title.".

TITLE III—MISCELLANEOUS CIVIL SERVICE AMENDMENTS

SEC. 301. RECEPTION AND REPRESENTATION EXPENSES OF THE OFFICE OF PERSONNEL MANAGEMENT.

Section 1103(a) of title 5, United States Code, is amended—

(1) by striking out "and" after paragraph (7);

(2) by striking out the period after paragraph (8) and by inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) incurring official reception and representation expenses of the Office subject to any limitation prescribed in any law.".

SEC. 302. EXCEPTION TO NOTICE REQUIREMENTS FOR ROUTINE PAY MATTERS.

Section 1103(b) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Paragraphs (1) and (2) of this subsection and section 1105 of this title shall not apply to the establishment of any schedules or rates of basic pay or allowances under subpart D of part III of this title. The preceding sentence does not apply to the establishment of the procedures, methodology, or criteria used to establish such schedules, rates, or allowances.".

SEC. 303. PREDEPARTURE ALLOWANCE.

Section 5924(2)(A) of title 5, United States Code, is amended by inserting after "United States" the following: ", its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements".

SEC. 304. DENTAL CARE IN GOVERNMENT MEDICAL FACILITIES OVERSEAS.

The second sentence of section 5 of the Act of May 10, 1943 (24 U.S.C. 35; 57 Stat. 81) is amended to read as follows: "Routine dental care, other than dental prosthesis and orthodontia, may be furnished to such persons who are outside the naval service under the same conditions as are prescribed in section 4 of this Act for hospital and dispensary care for such persons.".

SEC. 305. MINIMUM ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) REPEAL.—Section 8345(f) of title 5, United States Code, is repealed.

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(b) SAVINGS PROVISION.—An annuity payable from the Civil Service Retirement and Disability Fund as of the day before the date of enactment of this Act shall not be reduced—

(1) by reason of the repeal of section 8345(f) of title 5, United States Code; or

(2) if or to the extent that the reduction is to be made for the purpose of eliminating an overpayment resulting from the manner in which such section 8345(f) has been administered by the Office of Personnel Management.

(c) RATIFICATION OF ERRONEOUS PAYMENTS.—Any individual to whom an overpayment of an annuity has been made from the Civil Service Retirement and Disability Fund before the date of enactment of this Act shall be deemed to have been entitled to that overpayment if and to the extent that such overpayment resulted from the manner in which the Office of Personnel Management has administered section 8345(f) of title 5, United States Code.

(d) ADJUSTMENTS OF CERTAIN REDUCTIONS.—(1) Effective for any month after the date of enactment of this Act, the amount of any annuity which—

(A) is payable from the Civil Service Retirement and Disability Fund; and

(B) was reduced after June 30, 1985, and before the date of enactment of this Act, to eliminate any overpayment resulting from the manner in which the Office of Personnel Management administered section 8345(f) of title 5, United States Code,

shall not be less than the amount which would have been payable as of such date of enactment if the reduction described in clause (B) had not been made.

(2)(A) The Office shall make a lump-sum payment to each individual receiving an annuity to which paragraph (1) applies.

(B) The lump-sum payment made to any individual under this paragraph shall be equal to the excess of—

(i) the total amount of the annuity payments which would have been made to the individual for the period beginning with the first month in which the reduction described in paragraph (1)(B) was made and ending on the last day of the month in which this Act is enacted if the reduction had not been made, over

(ii) the total amount of the annuity payments which have been paid to such individual for that period.

SEC. 306. CIVIL SERVICE BENEFITS FOR FORMER EMPLOYEES OF COUNTY COMMITTEES.

(a) RETENTION.—Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

(b) RATE OF PAY ON CHANGE OF POSITION.—Section 5334(e) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

(c) ACCRUAL AND ACCUMULATION OF LEAVE.—The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

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SEC. 307. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) IN GENERAL.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following:

"(o)(1)(A) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who notifies the Office at such time (in accordance with subsection (j)) that a survivor annuity under section 8341(b) of this title is not desired,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a reduction under subsection (j) made in the annuity of the employee or Member (or in such portion thereof as the employee or Member may designate) in order to provide a survivor annuity for the spouse of such employee or Member.

"(B) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who at such time designates (in accordance with subsection (j)) that a limited portion of the annuity of such employee or Member is to be used as the base for a survivor annuity under section 8341(b) of this title,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a greater portion of the annuity of such employee or Member so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b)(2) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i) of this subparagraph computed using the interest rate specified or determined under section 8334(e) of this title for the calendar year in which the amount to be deposited is determined.

"(3) An election by an employee or Member under this subsection voids prospectively any election previously made in the case of such employee or Member under subsection (j).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and

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obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.

"(6) The Office shall, on an annual basis, inform each employee or Member who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b) EFFECTIVE DATE AND APPLICATION.—(1) The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

(2)(A) Subject to subparagraph (B), the amendment made by subsection (a) shall apply with respect to employees and Members who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 8339(o) of title 5, United States Code (as added by subsection (a) of this section) to employees and Members who retire before the date on which the amendment made by subsection (a) first takes effect—

(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 8339(o) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the terms "employee" and "Member" each has the meaning given that term in sections 8331(1) and 8331(2) of title 5, United States Code, respectively.

JIM WRIGHT

Speaker of the House of Representatives.

PRO TEMPORE

STROM THURMOND

Vice President of the United States and President of the Senate.

PRO TEMPORE

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